



# House of Representatives

General Assembly

**File No. 380**

February Session, 2002

House Bill No. 5551

*House of Representatives, April 8, 2002*

The Committee on Finance, Revenue and Bonding reported through REP. MCDONALD of the 148th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

## **AN ACT CONCERNING TAX TREATMENT OF PROPERTY MANAGEMENT SERVICES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (8) of section 12-407 of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective July*  
3 *1, 2002, and applicable to sales occurring on or after July 1, 2002*):

4 (8) (A) "Sales price" means the total amount for which tangible  
5 personal property is sold by a retailer, the total amount of rent for  
6 which occupancy of a room is transferred by an operator, the total  
7 amount for which any service described in subsection (2) of this  
8 section is rendered by a retailer or the total amount of payment or  
9 periodic payments for which tangible personal property is leased by a  
10 retailer, valued in money, whether paid in money or otherwise, which  
11 amount is due and owing to the retailer or operator and, subject to the  
12 provisions of subsection (1) of section 12-408, as amended, whether or

13 not actually received by the retailer or operator, without any deduction  
14 on account of any of the following: (i) The cost of the property sold; (ii)  
15 the cost of materials used, labor or service cost, interest charged, losses  
16 or any other expenses; (iii) for any sale occurring on or after July 1,  
17 1993, any charges by the retailer to the purchaser for shipping or  
18 delivery, notwithstanding whether such charges are separately stated  
19 in a written contract, or on a bill or invoice rendered to such purchaser  
20 or whether such shipping or delivery is provided by the retailer or a  
21 third party. The provisions of subparagraph (A) (iii) shall not apply to  
22 any item exempt from taxation pursuant to section 12-412, as  
23 amended. Such total amount includes any services that are a part of  
24 the sale; except as otherwise provided in subparagraph (B)(v) or (B)(vi)  
25 of this subsection, any amount for which credit is given to the  
26 purchaser by the retailer, and all compensation and all employment-  
27 related expenses, whether or not separately stated, paid to or on behalf  
28 of employees of a retailer of any service described in subsection (2) of  
29 this section. (B) "Sales price" does not include any of the following: (i)  
30 Cash discounts allowed and taken on sales; (ii) any portion of the  
31 amount charged for property returned by purchasers, which upon  
32 rescission of the contract of sale is refunded either in cash or credit,  
33 provided the property is returned within ninety days from the date of  
34 purchase; (iii) the amount of any tax, not including any manufacturers'  
35 or importers' excise tax, imposed by the United States upon or with  
36 respect to retail sales whether imposed upon the retailer or the  
37 purchaser; (iv) the amount charged for labor rendered in installing or  
38 applying the property sold, provided such charge is separately stated  
39 and exclusive of such charge for any service rendered within the  
40 purview of subparagraph (I) of subdivision (i) of subsection (2) of this  
41 section; (v) unless the provisions of subsection (4) of section 12-430 or  
42 of section 12-430a are applicable, any amount for which credit is given  
43 to the purchaser by the retailer, provided such credit is given solely for  
44 property of the same kind accepted in part payment by the retailer and  
45 intended by the retailer to be resold; (vi) the full face value of any  
46 coupon used by a purchaser to reduce the price paid to a retailer for an  
47 item of tangible personal property, whether or not the retailer will be

48 reimbursed for such coupon, in whole or in part, by the manufacturer  
49 of the item of tangible personal property or by a third party; (vii) the  
50 amount charged for separately stated compensation, fringe benefits,  
51 workers' compensation and payroll taxes or assessments paid to or on  
52 behalf of employees of a retailer who has contracted to manage [a  
53 service recipient's property] one or more service recipients' property or  
54 properties or business premises and renders management services  
55 described in subdivision (i) of subsection (2) of this section [, provided,  
56 the employees perform such services solely for the service recipient at  
57 its property or business premises] and "sales price" shall include the  
58 separately stated compensation, fringe benefits, workers'  
59 compensation and payroll taxes or assessments paid to or on behalf of  
60 any employee of the retailer who is an officer, director or owner of  
61 more than five per cent of the outstanding capital stock of the retailer;  
62 [. Determination whether an employee performs services solely for a  
63 service recipient at its property or business premises for purposes of  
64 this subdivision shall be made by reference to such employee's  
65 activities during the time period beginning on the later of the  
66 commencement of the management contract, the date of the  
67 employee's first employment by the retailer or the date which is six  
68 months immediately preceding the date of such determination;] (viii)  
69 the amount charged for separately stated compensation, fringe  
70 benefits, workers' compensation and payroll taxes or assessments paid  
71 to or on behalf of (I) a leased employee, or (II) a worksite employee by  
72 a professional employer organization pursuant to a professional  
73 employer agreement. For purposes of this subparagraph, an employee  
74 shall be treated as a leased employee if the employee is provided to the  
75 client at the commencement of an agreement with an employee leasing  
76 organization under which at least seventy-five per cent of the  
77 employees provided to the client at the commencement of such initial  
78 agreement qualify as leased employees pursuant to Section 414(n) of  
79 the Internal Revenue Code of 1986, or any subsequent corresponding  
80 internal revenue code of the United States, as from time to time  
81 amended, or the employee is added to the client's workforce by the  
82 employee leasing organization subsequent to the commencement of

83 such initial agreement and qualifies as a leased employee pursuant to  
84 Section 414(n) of said Internal Revenue Code of 1986 without regard to  
85 subparagraph (B) of paragraph (2) thereof. A leased employee, or a  
86 worksite employee subject to a professional employer agreement, shall  
87 not include any employee who is hired by a temporary help service  
88 and assigned to support or supplement the workforce of a temporary  
89 help service's client; and (ix) any amount received by a retailer from a  
90 purchaser as the battery deposit that is required to be paid under  
91 subsection (a) of section 22a-245h; the refund value of a beverage  
92 container that is required to be paid under subsection (a) of section  
93 22a-244; or a deposit that is required by law to be paid by the  
94 purchaser to the retailer and that is required by law to be refunded to  
95 the purchaser by the retailer when the same or similar tangible  
96 personal property is delivered as required by law to the retailer by the  
97 purchaser, if such amount is separately stated on the bill or invoice  
98 rendered by the retailer to the purchaser.

99 Sec. 2. Subdivision (9) of section 12-407 of the general statutes is  
100 repealed and the following is substituted in lieu thereof (*Effective July*  
101 *1, 2002, and applicable to sales occurring on or after July 1, 2002*):

102 (9) (A) "Gross receipts" means the total amount of the sales price  
103 from retail sales of tangible personal property by a retailer, the total  
104 amount of the rent from transfers of occupancy of rooms by an  
105 operator, the total amount of the sales price from retail sales of any  
106 service described in subsection (2) of this section by a retailer of  
107 services, or the total amount of payment or periodic payments from  
108 leases or rentals of tangible personal property by a retailer, valued in  
109 money, whether received in money or otherwise, which amount is due  
110 and owing to the retailer or operator and, subject to the provisions of  
111 subsection (1) of section 12-408, as amended, whether or not actually  
112 received by the retailer or operator, without any deduction on account  
113 of any of the following: (i) The cost of the property sold; however, in  
114 accordance with such regulations as the Commissioner of Revenue  
115 Services may prescribe, a deduction may be taken if the retailer has  
116 purchased property for some other purpose than resale, has

117 reimbursed [his] the vendor for tax which the vendor is required to  
118 pay to the state or has paid the use tax with respect to the property,  
119 and has resold the property prior to making any use of the property  
120 other than retention, demonstration or display while holding it for sale  
121 in the regular course of business. If such a deduction is taken by the  
122 retailer, no refund or credit will be allowed to [his] the vendor with  
123 respect to the sale of the property; (ii) the cost of the materials used,  
124 labor or service cost, interest paid, losses or any other expense; (iii) for  
125 any sale occurring on or after July 1, 1993, except for any item exempt  
126 from taxation pursuant to section 12-412, as amended, any charges by  
127 the retailer to the purchaser for shipping or delivery, notwithstanding  
128 whether such charges are separately stated in the written contract, or  
129 on a bill or invoice rendered to such purchaser or whether such  
130 shipping or delivery is provided by the retailer or a third party. The  
131 total amount of the sales price includes any services that are a part of  
132 the sale; all receipts, cash, credits and property of any kind; except as  
133 otherwise provided in subparagraph (B)(v) or (B)(vi) of this subsection,  
134 any amount for which credit is allowed by the retailer to the purchaser;  
135 and all compensation and all employment-related expenses, whether  
136 or not separately stated, paid to or on behalf of employees of a retailer  
137 of any service described in subsection (2) of this section. (B) "Gross  
138 receipts" do not include any of the following: (i) Cash discounts  
139 allowed and taken on sales; (ii) any portion of the sales price of  
140 property returned by purchasers, which upon rescission of the contract  
141 of sale is refunded either in cash or credit, provided the property is  
142 returned within ninety days from the date of sale; (iii) the amount of  
143 any tax, not including any manufacturers' or importers' excise tax,  
144 imposed by the United States upon or with respect to retail sales  
145 whether imposed upon the retailer or the purchaser; (iv) the amount  
146 charged for labor rendered in installing or applying the property sold,  
147 provided such charge is separately stated and exclusive of such charge  
148 for any service rendered within the purview of subparagraph (I) of  
149 subdivision (i) of subsection (2) of this section; (v) unless the  
150 provisions of subsection (4) of section 12-430 or of section 12-430a are  
151 applicable, any amount for which credit is given to the purchaser by

152 the retailer, provided such credit is given solely for property of the  
153 same kind accepted in part payment by the retailer and intended by  
154 the retailer to be resold; (vi) the full face value of any coupon used by a  
155 purchaser to reduce the price paid to the retailer for an item of tangible  
156 personal property, whether or not the retailer will be reimbursed for  
157 such coupon, in whole or in part, by the manufacturer of the item of  
158 tangible personal property or by a third party; (vii) the amount  
159 charged for separately stated compensation, fringe benefits, workers'  
160 compensation and payroll taxes or assessments paid to or on behalf of  
161 employees of a retailer who has contracted to manage [a service  
162 recipient's property] one or more service recipients' property or  
163 properties or business premises and renders management services  
164 described in subdivision (i) of subsection (2) of this section [, provided  
165 the employees perform such services solely for the service recipient at  
166 its property or business premises] and "gross receipts" shall include the  
167 separately stated compensation, fringe benefits, workers'  
168 compensation and payroll taxes or assessments paid to or on behalf of  
169 any employee of the retailer who is an officer, director or owner of  
170 more than five per cent of the outstanding capital stock of the retailer;  
171 [. Determination whether an employee performs services solely for a  
172 service recipient at its property or business premises for purposes of  
173 this subdivision shall be made by reference to such employee's  
174 activities during the time period beginning on the later of the  
175 commencement of the management contract, the date of the  
176 employee's first employment by the retailer or the date which is six  
177 months immediately preceding the date of such determination;] (viii)  
178 the amount charged for separately stated compensation, fringe  
179 benefits, workers' compensation and payroll taxes or assessments paid  
180 to or on behalf of (I) a leased employee, or (II) a worksite employee by  
181 a professional employer organization pursuant to a professional  
182 employer agreement. For purposes of this subparagraph, an employee  
183 shall be treated as a leased employee if the employee is provided to the  
184 client at the commencement of an agreement with an employee leasing  
185 organization under which at least seventy-five per cent of the  
186 employees provided to the client at the commencement of such initial

187 agreement qualify as leased employees pursuant to Section 414(n) of  
 188 the Internal Revenue Code of 1986, or any subsequent corresponding  
 189 internal revenue code of the United States, as from time to time  
 190 amended, or the employee is added to the client's workforce by the  
 191 employee leasing organization subsequent to the commencement of  
 192 such initial agreement and qualifies as a leased employee pursuant to  
 193 Section 414(n) of said Internal Revenue Code of 1986 without regard to  
 194 subparagraph (B) of paragraph (2) thereof. A leased employee, or a  
 195 worksite employee subject to a professional employer agreement, shall  
 196 not include any employee who is hired by a temporary help service  
 197 and assigned to support or supplement the workforce of a temporary  
 198 help service's client; and (ix) the amount received by a retailer from a  
 199 purchaser as the battery deposit that is required to be paid under  
 200 subsection (a) of section 22a-256h; the refund value of a beverage  
 201 container that is required to be paid under subsection (a) of section  
 202 22a-244 or a deposit that is required by law to be paid by the purchaser  
 203 to the retailer and that is required by law to be refunded to the  
 204 purchaser by the retailer when the same or similar tangible personal  
 205 property is delivered as required by law to the retailer by the  
 206 purchaser, if such amount is separately stated on the bill or invoice  
 207 rendered by the retailer to the purchaser.

This act shall take effect as follows:	
Section 1	<i>July 1, 2002, and applicable to sales occurring on or after July 1, 2002</i>
Sec. 2	<i>July 1, 2002, and applicable to sales occurring on or after July 1, 2002</i>

**FIN**            *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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**OFA Fiscal Note****State Impact:**

Fund-Type	Agency Affected	FY 03 \$
GF - Revenue Loss	Department of Revenue Services	\$.5 to \$1.5 million
GF - Savings	Department of Revenue Services	Minimal

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill is anticipated to result in an annual General Fund revenue loss of between \$.5 million and \$1.5 million beginning in FY 02.

The changes contained in the bill are also expected to make it easier for the Department of Revenue Services (DRS) to administer the sales and use tax laws as they pertain to property management companies. Therefore the bill is expected to result in some minimal administrative savings to DRS.

**OLR Bill Analysis**

HB 5551

**AN ACT CONCERNING TAX TREATMENT OF PROPERTY MANAGEMENT SERVICES****SUMMARY:**

This bill eliminates a requirement that a property management company charge sales tax on the part of a customer's bill that is attributable to wages and benefits for a company employee who works at multiple nonresidential properties. Under current law, unless the employee works for only one customer at one property, the management company must charge sales tax on the employee's compensation, fringe benefits, workers' compensation, and payroll taxes.

The bill also eliminates the test the Department of Revenue Services must use to determine when a property management company employee works for only one customer at one property.

EFFECTIVE DATE: July 1, 2002 and applicable to sales on and after that date.

**BACKGROUND*****Property Management Companies***

Property management companies typically provide building and property maintenance and upkeep. The services are subject to sales tax if provided to industrial, commercial, or income-producing property. Services provided to owner-occupied residential properties with fewer than three dwelling units or to low- and moderate-income housing operated by nonprofit housing organizations are not taxable.

**COMMITTEE ACTION**

Finance, Revenue and Bonding Committee

Joint Favorable Report

Yea 32      Nay 10

